

# EXHIBIT A

**Hudson, Dale**

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**From:** Scott Alan Burroughs [mailto:scott@donigerlawfirm.com]  
**Sent:** Friday, September 29, 2017 4:53 PM  
**To:** Brian, Aaron; Riordan, Staci Jennifer  
**Cc:** 'Stephen Doniger'; 'Trevor Barrett'; Villanueva, April  
**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

Aaron:

The below is inaccurate. You have been aware of the prejudice that resulted from the untimely disclosure of your witnesses since the date you made the untimely disclosure, and were certainly aware of the prejudice throughout the meet-and-confer and briefing of the summary judgment motions and the pre-trial conferences and conversations. I do note that this is the first time that your office has offered plaintiff the opportunity to designate a rebuttal expert. And I also note that this is the first time that your office has conceded that its "rebuttal expert" designations were not in fact for purposes of rebuttal.

In any event, the Court's deadline by which to designate experts has long passed, and the Court recently indicated that it would not be moving any of the pre-trial dates. Moreover, we just finished one trial and are busy preparing for this one. To expect us to locate and retain a rebuttal expert at this late juncture is simply not reasonable. And, Ms. Riordan's insistence this morning that the trial documents must be filed by October 3<sup>rd</sup> further makes it impossible.

We will move forward with our motions.

Regards,

Scott Alan Burroughs, Esq.  
DONIGER / BURROUGHS  
603 Rose Avenue  
Venice, California 90291  
Phone: (310) 590-1820  
Electronic: [scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)  
Website: [www.donigerlawfirm.com](http://www.donigerlawfirm.com)

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**From:** Brian, Aaron [mailto:[abrian@nixonpeabody.com](mailto:abrian@nixonpeabody.com)]  
**Sent:** Thursday, September 28, 2017 5:30 PM  
**To:** Scott Alan Burroughs <[scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)>; Riordan, Staci Jennifer <[sriordan@nixonpeabody.com](mailto:sriordan@nixonpeabody.com)>  
**Cc:** 'Stephen Doniger' <[stephen@donigerlawfirm.com](mailto:stephen@donigerlawfirm.com)>; 'Trevor Barrett' <[tbarrett@donigerlawfirm.com](mailto:tbarrett@donigerlawfirm.com)>; Villanueva, April <[avillanueva@nixonpeabody.com](mailto:avillanueva@nixonpeabody.com)>  
**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

Scott/Steve,

In your Motions in Limine nos. 1 and 2 you allege that Plaintiff was prejudiced by the designation of experts Lake and Lewis as rebuttal experts on April 28, 2017.

To some extent this issue has been previously briefed. However, to our knowledge, this is the first time that Plaintiff has claimed prejudice because it was denied the opportunity to submit rebuttal experts. Please be advised that Defendant will stipulate that Plaintiff may designate expert rebuttal witnesses. In fact, we would have entered into that stipulation had it ever been requested.

Aaron



**Aaron Brian**

Counsel

abrian@nixonpeabody.com

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**From:** Scott Alan Burroughs [<mailto:scott@donigerlawfirm.com>]

**Sent:** Wednesday, September 27, 2017 6:56 PM

**To:** Riordan, Staci Jennifer

**Cc:** 'Stephen Doniger'; 'Trevor Barrett'; Brian, Aaron; Villanueva, April

**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

You need to read beyond the table of contents. To the extent you are striking instructions (for example, our 17.15), please move that instruction to the end of the document in a disputed instructions section. And, we again ask that you review your revisions to the Model Instructions, as they are virtually all improper. To the extent we need to unnecessarily spend time addressing these patently improper revisions to the Models (which the Court notes it prefers), we will ensure that we indicate as much when we move for fees. The parties should cooperate to make this process as efficient as possible. Please revise and resend.

Scott Alan Burroughs, Esq.

DONIGER / BURROUGHS

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Electronic: [scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)

Website: [www.donigerlawfirm.com](http://www.donigerlawfirm.com)

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**From:** Riordan, Staci Jennifer [<mailto:sriordan@nixonpeabody.com>]

**Sent:** Wednesday, September 27, 2017 6:50 PM

**To:** Scott Alan Burroughs <[scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)>

**Cc:** 'Stephen Doniger' <[stephen@donigerlawfirm.com](mailto:stephen@donigerlawfirm.com)>; 'Trevor Barrett' <[tbarrett@donigerlawfirm.com](mailto:tbarrett@donigerlawfirm.com)>; Brian, Aaron <[abrian@nixonpeabody.com](mailto:abrian@nixonpeabody.com)>; Villanueva, April <[avillanueva@nixonpeabody.com](mailto:avillanueva@nixonpeabody.com)>

**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

I am not sure I follow you.

We have a section as follows:

UNICOLORS' REQUESTED INSTRUCTIONS			
1.	MODIFICATIONS AS EVIDENCE OF WILLFUL INFRINGEMENT		
2.	BURDEN OF PROOF TO EXPENSES		

Attached is what you sent on 8/29. If there is something struck in its entirety, not replaced with our suggested change (as we are still required to meet and confer in hopes of resolving open disputes) and is not on the above list, please let me know so it can be added to your section.

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**From:** Scott Alan Burroughs [<mailto:scott@donigerlawfirm.com>]  
**Sent:** Wednesday, September 27, 2017 6:32 PM  
**To:** Riordan, Staci Jennifer  
**Cc:** 'Stephen Doniger'; 'Trevor Barrett'; Brian, Aaron; Villanueva, April  
**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

Incorrect. In this version our instructions are stricken instead of moved to the end with those of your instruction that we dispute. Please revise.

Scott Alan Burroughs, Esq.  
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Venice, California 90291  
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Electronic: [scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)  
Website: [www.donigerlawfirm.com](http://www.donigerlawfirm.com)

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**From:** Riordan, Staci Jennifer [<mailto:sriordan@nixonpeabody.com>]  
**Sent:** Wednesday, September 27, 2017 6:27 PM  
**To:** Scott Alan Burroughs <[scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)>  
**Cc:** 'Stephen Doniger' <[stephen@donigerlawfirm.com](mailto:stephen@donigerlawfirm.com)>; 'Trevor Barrett' <[tbarrett@donigerlawfirm.com](mailto:tbarrett@donigerlawfirm.com)>; Brian, Aaron <[abrian@nixonpeabody.com](mailto:abrian@nixonpeabody.com)>; Villanueva, April <[avillanueva@nixonpeabody.com](mailto:avillanueva@nixonpeabody.com)>  
**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

That was done last week. Reattaching Aaron's email here.

Best,  
Staci

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**From:** Scott Alan Burroughs [<mailto:scott@donigerlawfirm.com>]  
**Sent:** Wednesday, September 27, 2017 6:17 PM  
**To:** Riordan, Staci Jennifer  
**Cc:** 'Stephen Doniger'; 'Trevor Barrett'; Brian, Aaron; Villanueva, April  
**Subject:** RE: October 10/3 joint filings - Unicolors v. H&M

Yes – I am working on versions of the below. As for the jury instructions, please send me one document containing a red-lined version of the last iteration that I sent to your office. If you object to any of our proposed instructions, please move them to the end with those of your instructions that we dispute. Thanks.

Scott Alan Burroughs, Esq.  
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Website: [www.donigerlawfirm.com](http://www.donigerlawfirm.com)

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**From:** Riordan, Staci Jennifer [<mailto:sriordan@nixonpeabody.com>]  
**Sent:** Wednesday, September 27, 2017 6:15 PM  
**To:** [scott@donigerlawfirm.com](mailto:scott@donigerlawfirm.com)  
**Cc:** Stephen Doniger ([stephen@donigerlawfirm.com](mailto:stephen@donigerlawfirm.com)) <[stephen@donigerlawfirm.com](mailto:stephen@donigerlawfirm.com)>; 'Trevor Barrett' <[tbarrett@donigerlawfirm.com](mailto:tbarrett@donigerlawfirm.com)>; Brian, Aaron <[abrian@nixonpeabody.com](mailto:abrian@nixonpeabody.com)>; Villanueva, April <[avillanueva@nixonpeabody.com](mailto:avillanueva@nixonpeabody.com)>  
**Subject:** October 10/3 joint filings - Unicolors v. H&M

Dear Scott:

I want touch base with you about our upcoming deadline of October 3, 2017. We have the following joint filings due:

- Agreed & Disputed Jury instructions
- Agreed Verdict form
- Statement re disputed instructions & verdict forms
- Jointly prepared statement of the case; proposed case specific jury questions if any; and
- pre-trial conference order.

We presume that since you are the plaintiff, you will take the first pass at a draft joint pre-trial conference order so we can add our comments sometime this week.

We are working on a draft joint statement of the case, which we will have to you late tomorrow or Friday morning.

You also have had our comments to your redline of the jury instructions since last week. We anticipate receiving your changes to those from you prior to the weekend so we can review and either set a call for Monday to see if we can reach agreement or begin to prepare the statement regarding items in dispute.

Also note that I will be out for the Jewish holiday on Friday and Saturday. Should you want to discuss anything, it needs to be before or after those days.

Best,  
Staci



**Staci Jennifer Riordan**

Partner | Fashion Law Practice Team Leader | Branding, Entertainment & Counseling Group Leader  
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# EXHIBIT B



**OCEAN TOMO**  
INTELLECTUAL CAPITAL EQUITY

**JUSTIN VAHN LEWIS, CPA, CVA, CFF**  
**CURRICULUM VITAE**

April 2017

Justin Lewis is an experienced expert who has testified in both federal and state court. He is a Managing Director in Ocean Tomo's Expert Services practice and leads the firm's San Francisco office, Risk Management and License Compliance practices. Mr. Lewis' over 19 years of consulting experience includes the analysis and quantification of economic damages arising from patent, trademark, trade secrets, copyright infringement & breach of contract in over a hundred matters. He has a solid understanding of the financial issues and theories related to intellectual property and breach of contract litigation from discovery to trial.

In addition to his experience in intellectual property matters, Mr. Lewis performed audits for two years with a big five accounting firm of the financial statements for both private and public companies. He is an experienced forensic accountant, conducting investigations in securities litigation matters including matters involving fortune 500 companies. Mr. Lewis is a regular speaker on financial issues and has taught masters level courses in intellectual property valuation and risk management.

Prior to joining Ocean Tomo, Mr. Lewis worked at StoneTurn and Deloitte & Touche in their respective dispute practices. Mr. Lewis is a Certified Public Accountant in California, Certified Valuation Analyst, Certified in Financial Forensics and holds a BS in Business/Economics with an emphasis in accounting from University of California, Santa Barbara.

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**SELECT  
ENGAGEMENT  
EXPERIENCE**

- |                          |                          |                             |
|--------------------------|--------------------------|-----------------------------|
| ▪ Patent Infringement    | ▪ IP Valuation           | ▪ Trade Secret Disputes     |
| ▪ Business Valuation     | ▪ Trademark Infringement | ▪ Securities Litigation     |
| ▪ Copyright Infringement | ▪ Breach of Contract     | ▪ Accounting Investigations |
- 

**SELECT  
INDUSTRY  
EXPERIENCE**

- |                   |                      |                     |
|-------------------|----------------------|---------------------|
| ▪ Medical Devices | ▪ Wireless           | ▪ Semiconductor     |
| ▪ Healthcare      | ▪ Cellular           | ▪ Memory            |
| ▪ Biotechnology   | ▪ Electronics        | ▪ Software          |
| ▪ Pharmaceutical  | ▪ Financial Services | ▪ Video Gaming      |
| ▪ Manufacturing   | ▪ Environmental      | ▪ Winemaking        |
| ▪ Retail          | ▪ Consumer Goods     | ▪ Computer Hardware |
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**EDUCATION/  
LICENSES**

University of California Santa Barbara, B.A. Business/Economics emphasis in Accounting

Certified Public Accountant (CPA)

Certified Valuation Analyst (CVA)

Certified Financial Forensics (CFF)

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**EXPERIENCE**

Ocean Tomo 2/07 to the present – Managing Director

Manager at StoneTurn from 1/05 through 1/07.

Manager at Deloitte from 5/01 through 1/05.

Staff at Degnan & Associates from 4/99 through 4/01.

Auditor at Arthur Andersen from 7/97 through 4/99.

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**ASSOCIATION  
MEMBERSHIPS**

Member National Association of Certified Valuation Analysts

Member American Institute of Certified Public Accountants

Member Intellectual Property Owners Association – Licensing Committee

Member Licensing Executive Society – Chair of the Valuation and Pricing Committee

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**INDUSTRY  
PUBLICATION/  
PRESENTATIONS**

Co-authored “Changes in U.S. Patent Licensing Over the Past Twenty Years”, Les Nouvelles, 2006.

Speaker “The Impact of Patent Purchase and Patent Reform on Enforcement Damages”, ICAP/Ocean Tomo, IP Markets 2009

Speaker “IP Monetization 2009”, Practising Law Institute, 2009

Speaker “Emerging Issues in IP and Valuation”, Licensing Executive Society, 2009

Guest Lecturer – Illinois Institute of Technology – Masters Level Course – 2011

Speaker “Managing and Insuring IP Litigation Risk”, IPO Licensing Committee – 2011

Guest Lecturer – Golden Gate University – IP Management Course, Masters Program, 2011



Speaker "IP Risk Management", Woodruff Sawyer & Co. – 2011

Guest Lecturer – Illinois Institute of Technology – Masters Level Course – 2012

Speaker and Moderator, "Patent Disputes 2012" - Thompson Reuters – June 2012

Presentation – Delegation of the Malaysian Government – IP Valuation and IP Backed Lending, June 2013

Speaker – Center for Applied Innovation Town Hall Meeting, IP Investments & Markets, "IP Risk Management" Workshop – June 2013

Speaker "Royalty/Payment Clauses", IPO Licensing Committee – 2013

Speaker and Moderator, "Patent Disputes 2013" – November 2013

Speaker "IP Valuation: In and Out of Litigation", IPO Licensing Committee – 2014

Speaker "Trends in IP Damages", Qualcomm – 2014

Speaker "Modern Approaches to Calculating Reasonable Royalty Damages," ABA IPLSpring – March 2015

Speaker "IP Considerations and the Value Impact for Early-Stage Companies," Licensing Executive Society Webinar, May 2015

Speaker "IP Valuation to Support Transactions," Licensing Executive Society, May 2015

Moderator "Value of Creative Innovation Strategies" Licensing Executive Society, April 2016

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**TESTIMONY**

*Wilfredo Balce v. Lucky Chances, Inc.*

U.S. District Court – Northern District of California, 3:2007cv01090

Deposition and Trial

Filed: 2/22/07

*Petter Investments, Inc. v. Hydro Engineering, Inc.*

U.S. District Court – Western District of Michigan, 1:2007cv01033

Deposition

Filed: 10/12/07

*Vornado Liquidating Trust v. Tyco Electronics, et al.*

Superior Court of the State of California – San Francisco, CGC-05-441279

Deposition

Filed: 5/13/05



*Powertech Technology Inc. v. Tessera, Inc.*

U.S. District Court – Northern District of California, Oakland Division

Deposition

Filed: 3/5/10

*Accusoft Corporation v. Quest Diagnostics Inc., et al.*

U.S. District Court – District of Massachusetts, 4:12-cv-40007-TSH

Deposition

Filed: 11/14/11

*Chico's FAS, Inc. v. 1654754 Ontario, Inc. D/B/A Wink Intimates*

U.S. District Court – Middle District of Florida, Ft. Myers Division, 2:13-cv-

00792-SPC-DNF

Deposition

Filed: 11/14/13

*Yardi Systems, Inc. v. Property Solutions International Inc.*

U.S. District Court – Central District of California, 2:13-cv-07764

Deposition

Filed: 4/4/14

*Touchstone Home Health, LLC v. Touchstone Health Partners*

District Court – Larimer County, Colorado, 2013CV030788

Deposition

Filed: 6/17/13

*Tranxition, Inc. v. Lenovo (United States) Inc.*

U.S. District Court – Portland Division of Oregon, 3:12-cv-1065

Declaration

Filed: 6/15/12

*180s, Inc. et al. v. J.C. Penney Company, Inc. et al.*

U.S. District Court – Baltimore Division of Maryland, 13-cv-3330

Declaration

Filed: 11/7/13

*Invention Capital Partners, v. Phoenix Technologies Ltd; et al.*

California Superior Court – County of Santa Clara

Deposition

Filed: 3/7/13

*Copper Harbor Company, Inc. v. Central Garden & Pet Company et al.*

California Superior Court – County of Contra Costa

Deposition and Trial

Filed: 10/16/15



*EZ-Pedo Inc. v. Mayclin Dental Studio, Inc.*  
U.S. District Court – Eastern District of California  
Deposition  
Filed: 4/7/16

*Attachmate Corp. v. Fidelity National Financial, Inc.*  
U.S. District Court – Middle District of Florida  
Deposition  
Filed: 11/23/15

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**CONTACT**

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